

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

OCT 12 2010

JONATHAN B. BRISTOW,
Plaintiff,

vs.

POTTAWATOMIE COUNTY CLERK,
et seq.,
Defendants.

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Yuh DEPUTY

No. CIV-10-43-W

ORDER

On August 31, 2010, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended that the complaint filed by plaintiff Jonathan B. Bristow be dismissed without prejudice. Bristow was advised of his right to object to the Report and Recommendation, but no objections have been filed within the allotted time.

Bristow filed his complaint on January 13, 2010, seeking relief under title 42, section 1983 of the United State Code. Pursuant to Rule 4, F.R.Civ.P., Bristow was required to serve the defendants named in his complaint with a summons and a copy of the complaint within 120 days of the date the complaint was filed.

On March 30, 2010, Magistrate Judge Bacharach extended the deadline for obtaining service to July 28, 2010. See Doc. 15. Because the record did not indicate that service had been perfected by that date, Magistrate Judge Bacharach on August 6, 2010, ordered Bristow to file proof of service on the defendants or to show good cause why service had not been timely accomplished. See Doc. 16. He also advised Bristow that his failure to comply could result in dismissal without prejudice. See id.

Bristow failed to respond to Magistrate Judge Bacharach's Order issued on August 6, 2010, and as of this date, Bristow has neither filed proof of service on the defendants nor shown good cause why service on the defendants has not been effected.


Upon review of the record and because no factors favor any further extensions of time to obtain service, e.g., Espinoza v. United States, 52 F.3d 838, 841 (10th Cir. 1995), the Court concurs with Magistrate Judge Bacharach and his suggestion that this matter be dismissed without prejudice for failure to timely serve the defendants.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 17 filed on August 31, 2010; and

(2) DISMISSES without prejudice the complaint filed in this matter on January 13, 2010.

ENTERED this 12th day of October, 2010.


LEE R. WEST
UNITED STATES DISTRICT JUDGE